

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,  
Secretary.

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# Title 50—Wildlife and Fisheries

## CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

### PART 216—MARINE MAMMALS

#### Incidental Taking in the Course of Commercial Fishing Operations

On September 8, 1975, a notice was published in the FEDERAL REGISTER (40 FR 41531-41536) announcing, among other things, that the NMFS proposed to reissue general permits for 1976 to allow commercial fishermen to take marine mammals incidental to commercial fishing operations and, in connection with the general permit for "Encircling Gear; Yellowfin Tuna Purse Seining", to establish a quota on incidental porpoise mortality. The announced purpose of the quota was to give some reasonable assurance that the principal stocks of porpoise involved in the fishery will increase in size. This would allow the NMFS to continue its efforts to reduce the rate of mortality and serious injury to insignificant levels approaching zero without being concerned about the porpoise stocks potentially being jeopardized as a result of the reissuance of the general permit. Another matter addressed in the Notice was the extent of the observer program, i.e., the number of observers placed on board vessels engaged in the fishery. Some have misconstrued the role of the observers and characterized them as enforcement officers. However, the Notice makes it clear that the role of the observers will be, among other things, to gather scientific data and monitor compliance with the regulations. Certain data collected by observers may, if requested by the public, be made available under the provisions of the Freedom of Information Act. The observers, however, will have no enforcement authority.

On October 9 and 10, informal public hearings were held in Washington, D.C.,

and on October 24 and 25, additional public hearings were held in San Diego, California. The Record was held open until November 5, so as to permit additional public comments. Furthermore, subsequent to the initial hearings in Washington, discussions were held with interested parties on the subject and contemporaneous Congressional hearings created another record of the position of the various parties in interest.

As a result of analyzing the foregoing hearing records, as well as other sources of information gathered in connection with the NMFS proposal, it became apparent that there were two divergent approaches to the proposal. On the one hand those spokesmen representing environmental organizations strongly endorsed the NMFS proposal of a quota and full observer program whereas the industry and the Marine Mammal Commission, submitting recommendations pursuant to Title II of the Marine Mammal Protection Act, took issue with the proposal and offered alternative approaches.

The Marine Mammal Commission, by letter dated November 6, 1975, rejected a 100% observer program as not "necessary, feasible, or worth the expenditure of time, effort, and money." The Commission indicated that while obtaining data is essential, it could be obtained on something less than a 100% observer program. Furthermore, implicit in its comments was the recognition of a need for a cooperative effort between Government and industry in order to address and ultimately solve the problem. Lastly, the Commission could not, on the basis of reliable scientific information, arrive at a figure of permissible incidental mortality which could with reasonable assurance, enable the principal stocks of porpoise to increase in size and therefore rejected the use of an overall or individual stock quota, although it suggested the permitting of killing "... of up to approximately 85,060 marine mammals, as set forth on page 3 of the [American Tunaboat Association] application, provided, however, that the number of marine mammals authorized to be taken may be adjusted during the term of the permit ..."

The industry, through its Counsel, stated, *inter alia*, that (i) the record does not support the need for a quota; (ii) a quota would be contrary to the intent of the law; (iii) a quota would be economically disastrous to the industry; and (iv) a quota would be counterproductive. It is the industry's position that the answer to the problem lies in research and development through a close industry-government cooperative effort at sea. In this regard, industry restated its seven point program discussed at length during the hearing. Industry further raised some legal objections regarding the Government's right to require observers to be taken aboard vessels and suggested that the only way to assure observers access to vessels on a meaningful basis was through a cooperative effort. It is industry's contention that this is the only way to solve the tuna/porpoise problem and

avoid legal contests as well as remove any concern for safety of the observers. Industry did offer to enter into an arrangement whereby observer data may be used for more than scientific purposes. In conversations with their Counsel, it was indicated that this arrangement could include the gathering of information regarding the effectiveness of the regulations.

Certain representatives of environmental groups, speaking through their Counsel, stated that they "strongly supported a comprehensive research and development program based on a joint NMFS-industry effort." However, it was their contention that such an effort "is not inconsistent with and should not be a substitute for an effective enforcement program including a comprehensive observer program and the establishment of an upper limit for the number of animals killed." Implicit in their position was the support of the Government's legal right to carry out its original proposals.

After reviewing all material submitted and considering all arguments made in connection with the matter, it is the position of the NMFS that it will modify its original proposals. It will not, at this time, impose a quota on the industry with respect to the number of porpoise its members may kill incidental to commercial fishing operations. However, the NMFS will impose a quota for the entire fishing season, if during the first part of the fishing season, porpoise mortality exceeds certain levels defined below. A decision on this matter will be made during May 1976. NMFS is planning to place observers on at least approximately 10 percent of the trips of vessels it selects which are engaged in the fishery. NMFS believes that a scientific sampling of 10 percent of the trips will be statistically sound and that the data compiled therefrom can be extrapolated to project the estimated porpoise mortality for the year by all vessels.

NMFS believes that this approach represents, at this time, the most reasonable way that it can meet its responsibility to reduce porpoise mortality incidental to yellowfin tuna fishing and its responsibility not to shut down or significantly curtail the activities of the tuna fleet as set forth in the Marine Mammal Protection Act and its legislative history. For success of this approach, cooperation is required. The NMFS expects this cooperation. If there is not significant progress, as detailed in paragraph (f), below, then a quota will be imposed and once a quota has been reached, setting on porpoises will be prohibited. Cooperation is the key to success. NMFS believes this approach (i) will reduce porpoise mortality; (ii) will result in a meaningful cooperative effort to resolve the problem; (iii) will not shut down or significantly curtail the activities of the tuna fleet; (iv) generally conforms to the recommendations of the Marine Mammal Commission; (v) deals with the problem in light of existing statutory funding limitations.

In lieu of the imposition at this time of a quota for 1976 on the number of porpoises allowed to be killed incidental to purse seining for yellowfin tuna and use of an observer on every tuna seiner



throughout the year, the Director has determined that the following course of action will be pursued for the 1976 fishing season:

a. Prior to January 1, 1976, the National Marine Fisheries Service will review with industry representatives the specific requirements for data collection and reporting by the observers and establish appropriate procedures implementing fleetwide reporting. As a result, it is anticipated that full agreement will be reached as to what data are to be collected aboard vessels. This will include reporting of biological and mortality data as well as information which can be used to determine the effectiveness of the regulations. The instructions to the observers will be revised accordingly. As an end result, before sailing, the fleet should fully understand what information is being collected and why such collection is necessary. As noted in the written comments of the American Tunaboat Association and the Tuna Research Foundations submitted for the record, the industry has stated its willingness "to work with a reasonable observer program" and its belief that the detailed operation of the observer program "can be resolved on an acceptable basis."

b. Industry representatives will be requested by NMFS to establish, on a fleet-wide basis, a significantly improved system of reporting data by vessels of the fleet without observers aboard.

c. Briefly summarized the major changes to the regulations (50 CFR 216.24) are as follows: (1) The Director reserves the right to establish a ceiling on the number of porpoise of any stock or species that may be killed, and to prohibit the setting on that species or mixture of species after the ceiling is reached.

(2) Appropriate notification procedures are provided by which to facilitate the placement of observers on vessels during regular fishing voyages.

(3) Sets on pure schools of striped dolphins are to be prohibited due to an increased number of sets on this species in 1974 and 1975 which resulted in increased mortality. This is an uncommonly encountered species which is readily identifiable and results in very low catches of yellowfin tuna.

(4) Procedures are described for towing of the net by speedboats when in the judgment of the certificate holder this is necessary.

(5) The requirement for torque-balanced cable is deleted due to inconclusive results of experimental use.

(6) The requirement of carrying a porpoise basket is deleted.

d. Observers will be placed aboard tuna purse seiners starting in January 1976, in accordance with an appropriate scientific sampling plan devised by the NMFS. As stated in testimony at oversight hearings before the Subcommittee on Fisheries, Wildlife Conservation and the Environment on October 30, 1975, an industry spokesman has committed industry to "maximum cooperation in the

placement of scientific research observers on U.S. tuna boats as recommended by the National Marine Fisheries Service sampling program."

e. The reports of all observers on vessels which have returned to port by April 15, 1976, will be analyzed by the Service in order to assess fleet performance. Specific attention will be given to projecting total porpoise deaths for 1976 on the basis of data such as:

- (1) kill per set,
- (2) kill per ton of tuna caught via setting on porpoise,
- (3) cumulative kill of porpoises,
- (4) size of porpoise schools,
- (5) composition of porpoise schools,
- (6) percentage of non-porpoise sets, and
- (7) abundance of tuna.

In determining the success of fleet performance under the regulations, certain of the above criteria will be adjusted for fishing conditions as necessary in order to provide a valid comparison of fleet performance in 1976 with previous years.

f. A quota for 1976 will be established in May or thereafter if the total number of porpoise deaths for the year is projected to exceed 70% of the final estimated 1975 kill. The key element in the decision on imposing a quota will be the comparison of the number of porpoises killed in the first 3-4 months of 1976 with the kill in the same time period in 1975 as measured by the results of observer cruises. Estimates of numbers of porpoise killed will be based on the observer data on number of porpoises killed per set.

The purpose of a quota will be to achieve a mortality level significantly below that of 1975. The present estimate of the 1975 kill, although uncertain, is approximately 130,000 animals. A final estimate will be available in early 1976.

g. The procedure for determining the size of a quota, if one is established, will take into account the anticipated characteristics of the remaining 1976 fishing season. Any material differences in the 1975 and 1976 seasons will be considered in the establishment of the quota level.

h. The NMFS proposal of September 1975 regarding imposition of a quota indicated a desire for some reasonable assurance of continued growth of porpoise stocks. Our best scientific estimate is, at the present time, that porpoise stocks involved in the yellowfin tuna fishery are either stable, or increasing or decreasing slightly. The Marine Mammal Commission feels that there is insufficient data to determine a figure of incidental mortality which will, with "reasonable assurance" enable the principal stocks of porpoise to increase in size.

The Service agrees with the Marine Mammal Commission on this point, but considers that an overall quota can be set, if warranted, which at least reasonably assures stability for the principal porpoise stocks until technological advances permit a reduction to a level of mortality envisioned by the Act.

1. During May 1976, a public meeting will be held in Washington, D.C., at which the Director will announce his

decision regarding imposition of an overall quota on porpoise kill for 1976, and the rationale for such decision. If the decision is to impose a quota, appropriate regulatory changes will be promulgated immediately without further public hearing. Based on the normal fishing pattern of the U.S. tuna fleet, the amount of fishing on porpoise remaining between May and December is such that a decision in May provides ample opportunity to ensure that porpoise stocks will not be adversely affected, and to notify the fleet so that it can adjust operations. After the decision is announced, whether a quota is imposed or not, NMFS will continue to monitor the situation and collect and analyze data to determine the need for possible subsequent action. If the analysis indicates additional actions are warranted, appropriate action will be taken.

In summary, the NMFS has concluded that the course of action delineated above will best serve the objectives of reducing incidental porpoise mortality without destroying the economic viability of the U.S. tuna fleet—both of which are mandates under the Marine Mammal Protection Act and its legislative history. The procedures modify NMFS proposals announced in the FEDERAL REGISTER in September that a ceiling be set on the numbers of porpoises that could be killed and that an observer be placed on every boat in the fleet. The modifications were made as a result of an analysis of the record of public hearings on the earlier proposals, exploration of the problem with industry and representatives of conservation interests, and review by the Administrator of the National Oceanic and Atmospheric Administration and the Secretary of Commerce.

A solution to the problem of the reduction of incidental porpoise mortality is much more likely through the channel of cooperation of all parties concerned than through confrontation. Most parties have pledged that cooperation toward a common goal and time must be provided for such efforts to produce results. As soon as gear modifications or methods of fishing operations are developed sufficiently to warrant use on a fleet-wide basis, they will be phased into the regulations as appropriate. In addition, in the event that net collapses attributable to the poor judgment of certificate holders continue to be a significant contributor to porpoise mortality, then consideration will be given to amending the regulations with respect to towing of nets, to make towing mandatory in certain instances.

It is acknowledged that for a variety of reasons less progress was made in reducing total incidental porpoise mortality in 1975 than was anticipated or desired. It appears clear at this time that at least one of the contributing factors was a breakdown in communications between NMFS and the fleet regarding what the regulations actually were, how to comply with them, and evaluation of their merits. By working



closely with industry in research and development, communications can be vastly improved. We expect as a result of cooperative efforts that the record of the U.S. fleet performance in 1976 will show a considerable improvement over previous years. It is our intent that porpoise mortality in 1976 should show a significant reduction over 1975.

As a result of the foregoing, the regulations governing the incidental taking of marine mammals during commercial fishing operations are amended as hereinafter set forth and are effective on December 19, 1975.

#### Summary of amendments

1. Section 216.24(b)(2) has been amended to itemize the information which must be submitted by an applicant for a general permit.

2. Section 216.24(b)(3) has been renumbered as § 216.24(b)(4) and has been altered to clarify its meaning. A new paragraph (b)(3) has been inserted which provides a mailing address for applications for a general permit, and provides that applications for a general permit should be received by the National Marine Fisheries Service not less than 180 days prior to the date upon which they are to become effective.

3. Section 216.24(b)(4) has been renumbered as § 216.24(c)(1) and has been amended in order to provide that the certificate holder on a fishing vessel must be the person in charge of and actually conducting fishing operations. A new paragraph (b)(4) has been inserted, which clarifies the language with regard to the period of validity of a general permit.

4. Section 216.24(b)(5) has been renumbered as § 216.24(c)(2). A new paragraph (b)(5) has been inserted which tracks the language of former paragraph (c)(5).

5. Section 216.24(b)(6) has been deleted. New language has been inserted which tracks that of former paragraph (c)(6), and clarifies the intent of the regulation that an opportunity for a hearing (with respect to a general permit application) be afforded within 60 days of publication of the notice.

6. Section 216.24(b)(7), regarding general permit application fees, has been added.

7. Section 216.24(c)(1) has been renumbered as § 216.24(c)(3), and its wording has been clarified. A new paragraph (c)(1) has been inserted providing that the certificate holder on a vessel must be the person in charge of and actually conducting fishing operations.

8. Section 216.24(c)(2) has been renumbered as § 216.24(c)(4). A new paragraph (c)(2) has been inserted, which tracks former paragraph (b)(5), altered for clarification.

9. Section 216.24(c)(3) has been renumbered as § 216.24(c)(5). A new paragraph (c)(3) has been inserted, which tracks the language of former paragraph (c)(1).

10. Section 216.24(c)(4) has been renumbered as § 216.24(c)(6). A new paragraph (c)(4) has been added, which

tracks the language of former paragraph (c)(2).

11. Section 216.24(c)(5) has been renumbered as § 216.24(b)(5). A new paragraph (c)(5) has been inserted which tracks the language of former paragraph (c)(3).

12. Section 216.24(c)(6) has been renumbered as § 216.24(b)(6) and its language clarified. A new paragraph (c)(6) has been inserted, which tracks the language of former paragraph (c)(4), with the addition of a fee schedule for applicants whose incomes fall below federal poverty guidelines.

13. Section 216.24(d)(2)(i) has been amended to prohibit the encircling of pure schools of striped dolphin, and to reflect the Director's authority to limit the taking of all other stocks or species of marine mammals.

14. Section 216.24(d)(2)(iii) has been amended to delete the requirement that log books be retained for one year.

15. Section 216.24(d)(2)(iv)(A) has been amended to clarify its meaning.

16. Section 216.24(d)(2)(iv)(B) has been amended.

17. Section 216.24(d)(2)(iv)(C) has been amended.

18. Section 216.24(d)(2)(iv)(D) has been deleted in large part, and language has been substituted indicating that the corkline hangings throughout the length of the corkline in which the porpoise safety panel is located must be inspected by the certificate holder following each trip, and a certain degree of tightness maintained.

19. Section 216.24(d)(2)(iv)(E): Subparagraph (1) of this paragraph has been deleted. Subparagraph (2), requiring that torque-balanced cable be installed has been deleted. New language has been inserted describing the situations in which, and the methods by which, towing on the net must be performed in order to prevent net collapse and the formation of pockets of loose webbing. Subparagraph (3) has been deleted.

20. Section 216.24(d)(2)(v): The requirement of this section that a "porpoise basket" be carried on purse seine vessels has been deleted. Inserted in its place is the language heretofore found in paragraph (vi), concerning the back-down procedure. In addition, the requirements concerning hand removal of porpoise from the net have been simplified in order to afford greater flexibility.

21. Section 216.24(d)(2)(vi) has been amended to include the language heretofore found in the first paragraph of § 216.24(d)(2)(vii).

22. Section 216.24(d)(2)(vii): The first paragraph of this section has been deleted and transferred to the new preceding section.

23. Section 216.24(e)(2) has been amended to clarify the language.

24. Section 216.24(e)(3) has been amended in order to reflect the changes in wording found in the previous section.

25. Section 216.24(f) has been amended to describe the circumstances under which, and the procedures by which, observers may be placed on purse seine ves-

sels operating under a category 2 general permit.

26. Figures pertaining to § 216.24(d)(2) have been renumbered.

Figure 1 becomes Figure 2; Figure 2 becomes Figure 1; Figure 3 becomes Figure 4; Figure 4 becomes Figure 5; and Figure 5 becomes Figure 3.

An additional figure, number 6, has been inserted.

Dated: December 2, 1975.

JACK W. GEHRINGER,

Deputy Director,

National Marine Fisheries Service.

The following are the specific amendments to the regulations. Due to the number of changes in §§ 216.24 (b), (c), and (d) (2), these sections are set forth in their entirety, notwithstanding the fact that all their subsections have not been amended.

1. Section 216.24 (b), (c), (d) (2), (e) (2), introductory text of (e) (3) and (f) are revised to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

(b) Permits: (1) General permits to allow the taking of marine mammals in connection with commercial fishing operations will be issued to persons using fishing gear within any one of the following five general categories:

(i) Towed or Dragged Gear. Shall include those commercial fishing operations utilizing towed or dragged gear such as bottom otter trawls, bottom pair trawls, multi-rig trawls, and dredging gear.

(ii) Encircling Gear: Yellowfin Tuna Purse Seining. Shall include those commercial fishing operations utilizing purse seines for yellowfin tuna.

(iii) Encircling Gear: Seining other than Yellowfin Tuna. Shall include those commercial fishing operations utilizing purse seines for species other than "yellowfin tuna."

(iv) Stationary Gear. Shall include commercial fishing operations utilizing stationary gear such as traps, pots, weirs, and pound nets.

(v) Other Gear. Shall include those commercial fishing operations utilizing trolling, gill nets, hook and line gear, and any gear not classified under paragraph (b) (1), (i), (ii), (iii), or (iv) of this section.

(2) Permits shall be issued as general permits to a class of fishermen using one of the general categories of gear set forth above. Any member of such class may apply for a general permit on behalf of all members of the class. Subsequent to a grant of the general permit, individuals may make application to be included under the terms of a general permit. Applications for a general permit should contain:

(i) Name, address and telephone number of the Applicant. If the Applicant is an organization or corporate entity, a copy of the corporate or organizational charter which sets forth the basis for application on behalf of a group or class



of commercial fishermen must be included;

(ii) The category of permit for which application is being made;

(iii) A statement describing why the Applicant cannot avoid taking marine mammals incidentally to commercial fishing operations. A description of the fishing operations by which marine mammals are taken;

(iv) The date upon which the general permit is to become effective;

(v) A list of the fish sought by those fishermen who may become parties to the general permit through inclusion by certificate, and the general areas of operation of such fishermen;

(vi) A statement identifying the marine mammals and numbers of marine mammals which are expected to be taken under the general permit;

(vii) A description of the procedures and techniques that will be utilized in order that takings under the permit will be consistent with the purposes and policies of the Marine Mammal Protection Act of 1972, and these regulations; and

(viii) A certification, signed by the Applicant, in the following language:

I certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under the Marine Mammal Protection Act of 1972 and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to the penalties provided under the Marine Mammal Protection Act of 1972.

(3) Applications for a general permit shall be submitted in an original and four copies to the Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235. Applications should be received not less than 180 days prior to the date upon which the permit is to become effective. Assistance may be obtained by writing the Director, National Marine Fisheries Service, or by calling the Marine Mammals and Endangered Species Division, telephone number (202) 634-7529.

(4) General permits shall be valid for a period not to exceed one year. A general permit shall be valid for the time period indicated on the face of the permit. General permits shall be subject to modification, suspension or revocation and may contain terms and conditions prescribed in accordance with section 104(b)(2), 16 U.S.C. 1374(b)(2) of the Act.

(5) The Director shall determine the adequacy and completeness of such applications received by him and if found to be adequate and complete, will forthwith publish a notice of such application in the FEDERAL REGISTER, giving interested parties thirty days in which to submit written data or views with respect to the granting of such permit.

(6) If within thirty days after the date of publication of notice with respect to an application for a general permit any interested party or parties request a hearing in connection therewith, the Director may, within sixty days following

such date of publication, afford such party or parties an opportunity for such a hearing. Any hearing held in connection with a general permit shall be conducted in the same manner as hearings held in connection with scientific or display permit applications under § 216.33.

(7) There is no fee associated with the application for a general permit.

(c) Certificates of Inclusion: (1) The person in charge of and actually conducting fishing operations on any vessel engaged in commercial fishing operations for which a general permit is required under this subpart shall be the holder of a valid certificate of inclusion under that general permit. Such certificates are not subject to public hearings prior to issuance. Such certificates shall not be transferable but will be valid on any vessel or boat on which the individual named in the certificate is the person in charge of and actually conducting the fishing operations.

(2) The certificate must be in the possession of the person to whom it was issued in the course of his fishing operations and shall be shown upon request to an enforcement agent or other designated agent of the National Marine Fisheries Service; provided, however, that persons at sea on a fishing trip on the expiration date of their certificate of inclusion, to whom a certificate of inclusion for the next year has been issued, may take marine mammals under the terms of the new certificate of inclusion but such persons are obligated to physically obtain the new certificate when they next return to port.

(3) After issuance of a general permit, applications for inclusion under such general permit will be accepted at any time. All persons under a general permit will receive a certificate evidencing such inclusion and setting forth the period of time during which they may conduct fishing operations under the general permit, provided, however, that each certificate shall expire no later than the general permit under which it is issued.

(4) Applications for certificates of inclusion should be addressed as follows: (i) Residents of the States of Washington, Oregon, Idaho, Montana, Wyoming, Colorado, North Dakota, South Dakota, and Utah, should make application to the Regional Director, National Marine Fisheries Service, Seattle, Washington 98102.

(ii) Residents of the States of California, Nevada, Arizona, Hawaii, and the territories of American Samoa, Guam, and the Trust Territory of the Pacific Islands should make application to the Regional Director, National Marine Fisheries Service, Terminal Island, California 90731.

(iii) Residents of the State of Alaska should make application to the Regional Director, National Marine Fisheries Service, Juneau, Alaska 99801.

(iv) Residents of the States of Maine, Vermont, New Hampshire, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, District of Columbia, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Michigan, Wisconsin, Illinois, Indiana, and Min-

nesota should make application to the Regional Director, National Marine Fisheries Service, Gloucester, Massachusetts 01930.

(v) Residents of the States of North Carolina, South Carolina, Florida, Mississippi, Louisiana, Texas, Georgia, Oklahoma, Alabama, Nebraska, Iowa, Tennessee, Missouri, New Mexico, Kentucky, Kansas, Puerto Rico, Virgin Islands, and Arkansas, should make application to the Regional Director, National Marine Fisheries Service, St. Petersburg, Florida 33702.

(5) Applications for certificates of inclusion shall contain:

(i) The name of the person(s) which is to appear on the certificate(s) of inclusion (provided that not more than one name shall appear on any certificate);

(ii) The category of the general permit under which the applicant(s) wishes to be included;

(iii) The species of fish sought and general area of operations;

(iv) The identity of state or local commercial fishing licenses, if any, under which fishing operations are conducted and dates of expiration; and

(v) The name and signature of the applicant, or the organization acting on behalf of the applicant(s).

(6) Fees: (i) Applications for certificates of inclusion shall contain a payment in accordance with the following schedule for each person named in paragraph (c)(5)(i) of this section. The schedule of fee payment is:

(A) Categories 1, 3, 4, and 5, Towed or Drugged Gear; Encircling Gear, Seining other than Yellowfin; Stationary Gear; and Other Gear: \$10.00.

(B) Category 2, Encircling Gear, Yellowfin Tuna Purse Seining: \$200.00.

Except as provided herein, applicants desiring a certificate of inclusion under more than one category of general permit will not be required to pay a full fee for each certificate. After the initial fee for a certificate is paid, additional certificates will be issued for a fee of fifty cents each. However, in any case the full fee must be paid for certificates of inclusion in category 2.

(ii) Notwithstanding the provisions of subparagraph (c)(5)(i) of this section, an applicant whose income is below Federal poverty guidelines may, on a showing in his application that his income is below such guidelines, be issued a certificate:

(A) Under categories 1, 3, 4, and 5—upon payment of a fee of \$1.00;

(B) Under category 2—upon payment of a fee of \$20.00.

(iii) The Director may change the amount of these required fees at any time he determines a different payment to be reasonable, and said change may be accomplished by publication in the FEDERAL REGISTER of the new payments required.

(7) The Regional Director receiving applications or certificates of inclusion shall determine the adequacy and completeness of such applications and, upon his determination that such applications



are adequate and complete, he shall immediately approve such applications and thereafter notify the applicants of his approval and issue a certificate to approved applicants.

(d) \* \* \*

(2) *Encircling gear; yellowfin tuna purse seining.* (i) (A) A certificate holder may take marine mammals, so long as such taking is an incidental occurrence in the course of normal commercial fishing operations, except that no certificate holder shall encircle pure schools of striped dolphin, *Stenella coeruleoalba*. The numbers of all other stocks or species of marine mammals that may be killed in the course of commercial fishing operations may be determined by the Director, who may, pursuant to such determination, prohibit the encircling of any or all of such stocks or species by purse-seine. Such a prohibition shall be announced at a public meeting held for that purpose, and notice thereof published in the *FEDERAL REGISTER* not less than 30 days prior to the date upon which the prohibition is to become effective.

(B) Marine Mammals taken incidental to commercial fishing operations shall be immediately returned to the environment where captured without further injury. Each certificate holder shall take every possible step to minimize the incidental mortality and serious injury of marine mammals in the course of commercial fishing operations, including refraining from using a sharp or pointed instrument on porpoise and refraining from causing or permitting a purse seine under his control to be set around marine mammals when conditions of wind, sea, visibility, or the number of marine mammals and/or fish concerned would, in his judgment, be likely to prevent the effective use of the backdown and other procedures required herein. Such steps to minimize mortality and serious injury shall include, where appropriate, causing a purse seine already set on marine mammals to be released and/or opened to facilitate release of marine mammals where such a step will, in his judgment, be effective and conditions prevent the effective use of the procedures required hereunder. The Director may publish findings relating to conditions of wind, sea, visibility or numbers of marine mammals and fish concerned which prevent the effective use of equipment and procedures required hereunder and result in an unacceptably high rate of incidental mortality and serious injury of marine mammals and under which conditions it would not be permissible to cause a set to be made on marine mammals.

(ii) A certificate holder may take such steps as are necessary to protect his catch, gear, or person from depredation, damage, or threat of personal injury without inflicting death or injury to any marine mammal.

(iii) All certificate holders shall maintain daily logs, in such forms as the Director may prescribe, of all sets in which marine mammals are taken. Such logs must include the location, time, and date

of set; weather, and water conditions; estimated number and species of marine mammals upon which set was made; estimated number and species of marine mammals caught; method used to remove marine mammals from net; amount and kind of tuna caught; and an actual count of marine mammals killed and seriously injured, if any, on each set. Such logs shall be subject to inspection at the discretion of the Regional Director, National Marine Fisheries Service, to whom a certificate application was made, or his designated agents. In addition, copies of all such logs shall be mailed or delivered to the Regional Director, NMFS, to whom a certificate application was made, at the earliest possible opportunity, but no later than 5 days after the most recent recording in the log, except that if a vessel at sea returns to port later than five days after such occurrence, then it shall be reported within forty-eight hours after arrival in port.

(iv) A certificate will be valid only on a vessel equipped with a porpoise safety panel in its purse seine, and using other gear and procedures as herein described. Porpoise safety panels and all other gear used in the course of catching and landing yellowfin tuna, backdown and other release procedures shall be maintained in a proper and seaworthy condition. The specifications and other particulars regarding the porpoise safety panel and other gear are as follows:

(A) The porpoise safety panel shall be installed so as to protect the entire perimeter of the backdown area from the cutboard end of the number three cork bunching line to the tiedown point. This panel must be a minimum of 100 fathoms in length, except that the minimum length of the panel in nets deeper than 10 fathoms shall be determined at a ratio of 10 fathoms in length for each strip that the net is deep (see figure 1). The porpoise safety panel shall consist of small mesh webbing not to exceed 2" stretch mesh, extending from the corkline downward to a minimum depth equivalent to one strip of 100 meshes of 4 1/4" stretch mesh webbing;

(B) Each end of the porpoise safety panel must be identified with an easily distinguishable marker;

(C) Throughout the length of the corkline in which the porpoise safety panel is located, hand hold openings are to be secured so that the insertion of a 1 1/2" diameter cylindrical-shaped object meets resistance (see figure 2);

(D) Throughout the length of the corkline in which the porpoise safety panel is located, corkline hangings shall be inspected by the certificate holder following each trip. Hangings found to have loosened to the extent that a cylindrical object with a 1 1/2" diameter will not meet resistance when inserted between the cork and corkline hangings, must be tightened so that a cylindrical object with a 1 1/2" diameter cannot be inserted. See Figure 2; and

(E) Towing: (i) Purse seine vessels engaged in fishing operations involving

setting on marine mammals shall carry a minimum of two speedboats in operating condition. All speedboats carried aboard purse seine vessels and in operating condition shall be rigged with towing bridle and towlines similar to those indicated in Figure 3. Vessels that do not carry at least two speedboats in operating condition and properly rigged may not conduct fishing operations which involve setting on marine mammals. (ii) Purse seine nets shall contain bunchlines arranged to allow for at least five bow bunches to be created when necessary; except that purse seine nets on vessels of 400 tons carrying capacity or less shall contain bunchlines arranged to allow for at least three bow bunches to be created when necessary. The remaining bunchlines shall be arranged around the perimeter of the net with both ends of some bunchlines unattached to permit towing from either end, or as is indicated in Figure 4; i.e., one rigged in normal fashion and the other reversed. The arrangement of bunchlines around the perimeter of the net must allow at least three towing points to be established at locations similar to those indicated in Figure 4. The ends of all bunchlines which can be utilized as towing points shall be marked so as to be clearly visible to speedboat drivers. (iii) Except as provided herein, on every set involving marine mammals, a minimum of two manned speedboats shall be in the water until backdown commences. Speedboats shall be prepared to hook onto bunchline towing points established along the perimeter of the net in order to tow the net to prevent net collapse and a formation of pockets of loose webbing, such as stern bends, which might entrap marine mammals. Other speedboats that are in operating condition shall be prepared for immediate use to tow if needed. Vessels of 400 tons carrying capacity or less which have an observer duly authorized by the Secretary aboard shall be allowed to have a minimum of one manned speedboat in the water from the time the set is commenced until backdown has commenced. (iv) Actual towing on the net shall be performed when, in the opinion of the certificate holder, towing is necessary to prevent net collapse or the formation of pockets of loose webbing. Figures 5 and 6 show examples of possible net configurations while towing with two or three speedboats. If towing the net has been necessary, the speedboats may unhook their towlines when towing is no longer needed, or their respective bunchlines begin to go up toward the power block or backdown commences.

(v) Backdown shall be performed following a net set where marine mammals are captured in the course of utilizing a purse seine for catching and landing yellowfin tuna. Thereafter, other release procedures shall be continued until all live animals have been released from the net. "Backdown" procedure means a series of maneuvers, which takes place after the net is tied down following a set



and pursing, which keeps the net open to the greatest degree and allows porpoise or other marine mammals to leave the pursed net over the net floats which are submerged as a result of the vessel moving astern. Commencing with backdown and continuing through the sacking up operation, a minimum of two men shall be engaged in hand removal of porpoise from the net. All live porpoise must be removed from the net prior to initiating brailing operations.

(vi) Purse seine nets and other gear and equipment utilized to catch and land fish under this section and to conduct backdown and other procedures herein required, shall be maintained in functional and seaworthy condition. All certificate holders shall maintain proficiency sufficient to perform the procedures required herein. Vessel gear and equipment as well as the proficiency of certificate holders will be subject to inspection and examination by authorized NMFS personnel at any time at the discretion of the Director. Any vessel found to not be equipped with gear which is in conformity with these regulations and maintained in a functional and seaworthy condition shall be ineligible for use by a certificate holder for commercial fishing operations under this section and the certificate of any certificate holder who is found to lack proficiency in the procedures required herein shall be immediately suspended or revoked.

(vii) A certificate holder's proficiency shall be determined by proof of attendance at, and satisfactory completion of, a formal training session conducted under the auspices of the National Marine Fisheries Service. At the training session, a certificate holder shall be instructed concerning the provisions of the Marine Mammal Protection Act of 1972, the regulations promulgated pursuant to the Act, the requirements of his certificate of inclusion and the appropriate general permit, and the fishing gear and techniques which are required or will contribute to reducing serious injury and mortality of porpoises incidental to purse seining for yellowfin tuna. In addition, for continuation or renewal of a certificate, a certificate holder may be required to attend other formal training sessions when there are substantial changes in the Act, the regulations or the required fishing gear and techniques.

(viii) The Director may publish a finding of the rate of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations conducted pursuant to these regulations.

(ix) Failure to comply with the provisions of this permit or these regulations, including, but not limited to, failure to submit, upon demand, to an

inspection or examination by an authorized agent of the National Marine Fisheries Service, falsification of logs and reports required hereunder, or failure to satisfy the requirements of any provisions of these regulations will subject certificate holders, vessel masters, or owners to immediate revocation of the certificate and/or right to be included under a general permit and further subject certificate holders, vessels, masters, or owners to the penalties provided for under the Act.

(e) \* \* \*

(2) The following fish and categories of fish, which the Director has determined are involved with commercial fishing operations which cause the death or injury of marine mammals, are subject to the prohibitions and documentation requirements of this paragraph:

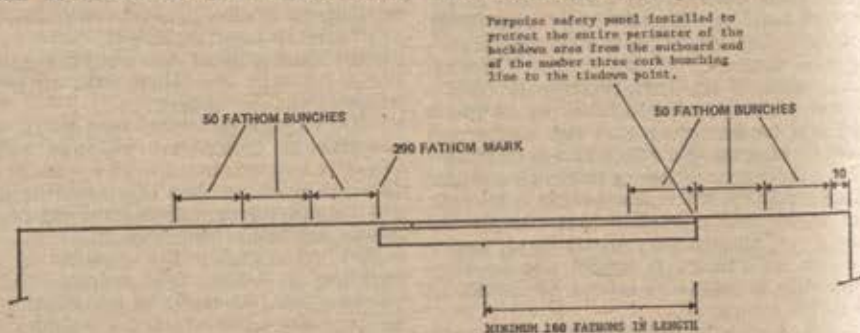
(i) Yellowfin tuna; salmon; halibut; and plichard from South Africa. The following U.S. Tariff Schedule Item Numbers identify these categories of yellowfin tuna, salmon, halibut, and plichard products which are imported into the United States and are to be covered by the documentation and certification requirements of § 216.24(e):

110.10-20	Tuna, yellowfin, whole fish.
110.10-25	Tuna, yellowfin, eviscerated, head on.
110.10-30	Tuna, yellowfin, eviscerated, head off.
110.10-37	Tuna, yellowfin, eviscerated.
110.20-25	Halibut, fresh or chilled.
110.20-30	Halibut, frozen.
110.20-45	Salmon, fresh or chilled.
110.10-50	Salmon, frozen.
110.70-40	Halibut, other—except portion controlled steaks.
111.48-00	Salmon, salted.
111.88-00	Salmon, smoked or kippered.
112.18-00	Salmon, preserved, not in oil.
112.20-00	Canned sardines/plichard (from S. Africa).
112.22-00	Canned sardines/plichard (from Africa).

(3) All fish and categories of fish listed in paragraph (e) (2) (i) of this section shall be denied entry into the United

States unless accompanied by shipping documentation showing:

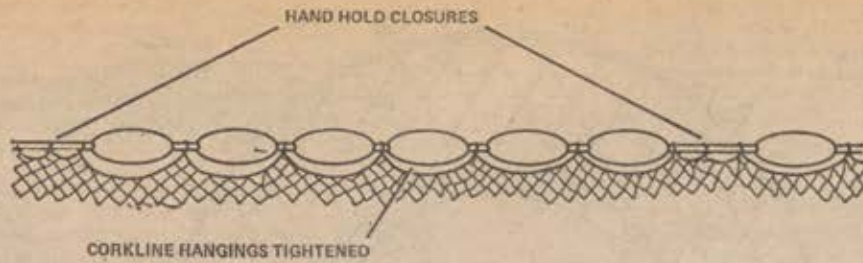
(f) The master of any commercial fishing vessel engaged in fishing operations for which a category 2 general permit is required shall, upon proper notification by the Regional Director as described in this section, allow an observer duly authorized by the Secretary to accompany the vessel on any or all regular fishing trips for the purpose of conducting research and observing operations. Research and observation duties shall be carried out in such a manner as to minimize interference with commercial fishing operations. No owner, master, operator or crew member of such vessel shall impair or in any way interfere with the research or observations being carried out. The Secretary shall provide for the payment of all reasonable costs directly related to the quartering and maintaining of such observers on board such vessels. The master or owner of each such vessel shall notify the Regional Director, Southwest Region, National Marine Fisheries Service (telephone (213) 548-2575) or a subsequently announced phone number at least 120 hours in advance of each fishing voyage, giving the name of the departing vessel, the date and time of departure, the port of departure, and the name of the certificate holder aboard such vessel. The Regional Director shall notify the master or owner who has so notified him, if he intends to place an observer on the vessel. Failure of the Regional Director to so notify the master or owner within 72 hours after receipt of notice of the announced departure relieves the master or owner of any obligation to carry an observer on that voyage. No vessel whose master or owner has failed to comply with the provisions of this section may engage in fishing operations for which a category 2 permit is required. Any person violating any of the provisions of this section shall be subject to the penalties provided in the Act.



LOCATION OF PORPOISE SAFETY PANEL INSERTION

Figure 1 - 216.24 d (2) (iv)





STANDARD SEINE

Figure 2 - 216.24 d (2) (iv)

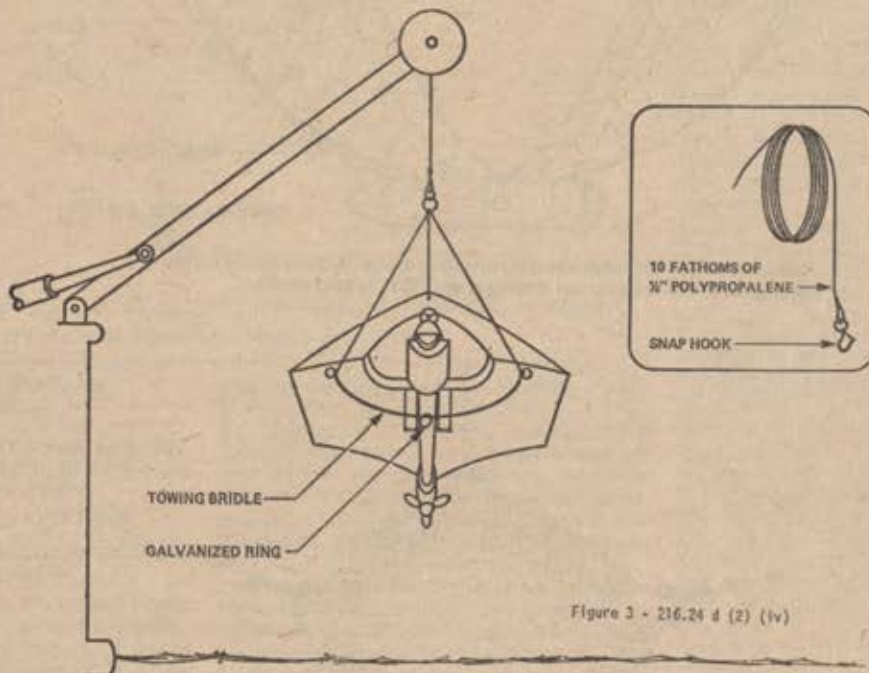
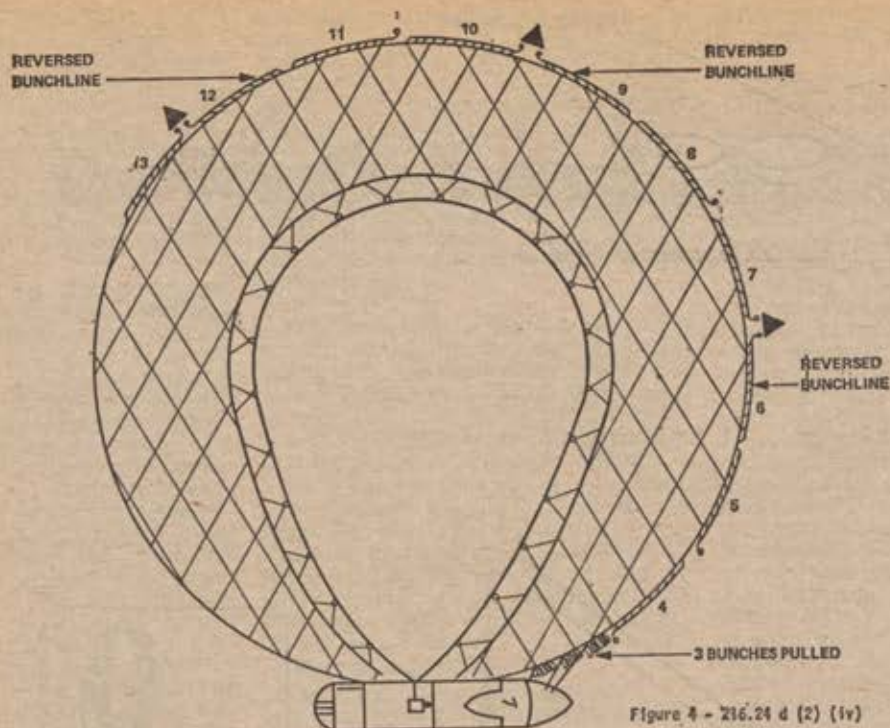


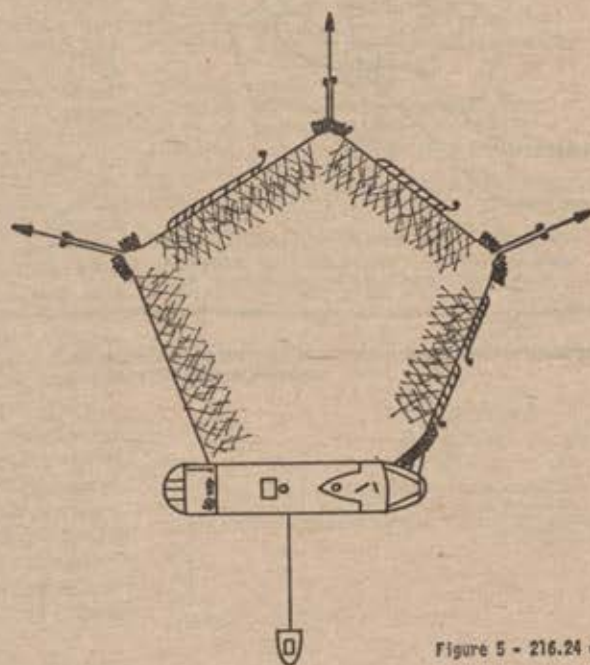
Figure 3 - 216.24 d (2) (iv)

SPEEDBOAT RIGGED WITH TOWING BRIDLE. INSET: LINE KEPT IN SPEEDBOAT TO CONNECT BUNCH LINES TO TOWING BRIDLE.

## RULES AND REGULATIONS



LOCATION OF REVERSE BUNCHLINES FOR USE WITH SPEEDBOATS TO HOLD NET OPEN USING A TOTAL OF 13 BUNCH LINES. TRIANGLES DENOTE TOWING POINTS.



SPEEDBOATS HOLDING NET OPEN, AFTER THE NET IS PURSED, UTILIZING THE THREE REVERSED BUNCH LINES.



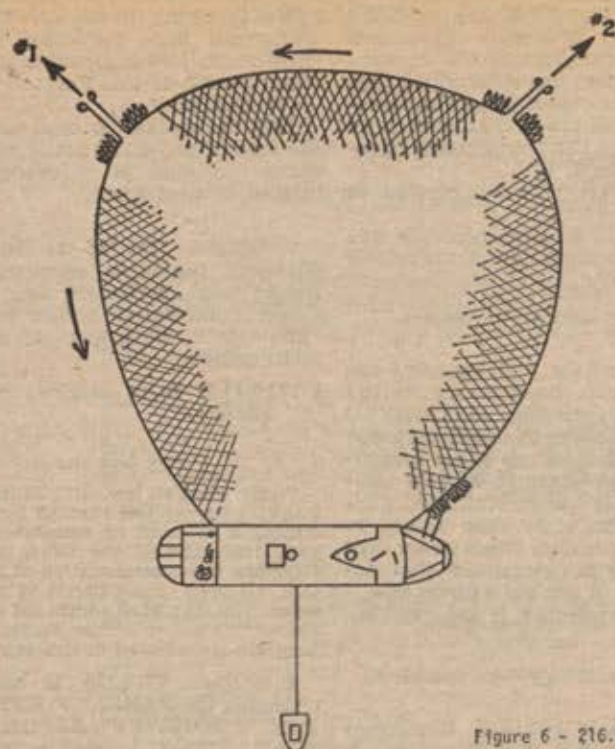


Figure 6 - 216.24 d (2)(iv)

SPEEDBOATS HOLDING NET OPEN, AFTER THE NET IS PURSED, UTILIZING TWO SPEEDBOATS  
[FR Doc.75-32835 Filed 12-4-75;8:45 am]

**Title 21—Food and Drugs**

[Docket No. 75F-0355]

**CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**PART 121—FOOD ADDITIVES**

**Aspartame; Stay of Effectiveness of Food Additive Regulation**

The Commissioner of Food and Drugs is staying the effectiveness of the regulation permitting certain uses in food of the sweetening substance aspartame. The stay takes effect December 5, 1975.

In the FEDERAL REGISTER of March 5, 1973 (38 FR 5921), notice was given that a petition (FAP 3A2885) had been filed by G. D. Searle & Co., Box 5110, Chicago, IL 60680, proposing the issuance of a food additive regulation to provide for the safe use of aspartame in foods as a nutritive substance with intense sweetness and with flavor-enhancing properties. In the FEDERAL REGISTER of July 26, 1974 (39 FR 27137), the Commissioner promulgated a food additive regulation for aspartame, § 121.1258 (21 CFR 121.1258). A correction in the preamble to the regulation was published in the FEDERAL REGISTER of September 26, 1974 (39 FR 34520). Three objections and two requests for hearing were received.

The two parties who requested a hearing, John W. Olney, M.D., and, jointly, James S. Turner and LABEL, Inc., have subsequently waived their right to a for-

mal evidentiary public hearing conditioned upon the establishment of a Public Board of Inquiry to consider the matter. The issues to be considered by the Public Board of Inquiry, together with the Commissioner's conclusions on the objection for which no hearing was requested, will be stated in a notice to be published in the FEDERAL REGISTER.

Although the Food and Drug Administration had announced its intention to convene the Public Board of Inquiry promptly, subsequent developments have made it inappropriate to consider at this time the issues raised by the objections. Preliminary results of an audit of the records of certain animal studies conducted by or for the petitioner, including studies on aspartame, indicate the need for a comprehensive review of certain of the research data held by or for the petitioner. The Public Board of Inquiry is therefore being postponed until questions raised by this audit have been resolved.

Under section 409(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(e)) the effectiveness of a food additive regulation upon which a hearing has been requested may be stayed in the discretion of the Commissioner. Because of the questions raised by the audit, the Commissioner concludes that the effectiveness of § 121.1258 should be stayed pending their resolution.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409, 72 Stat.

1785-1788 as amended (21 U.S.C. 348)) and under authority delegated to the Commissioner (21 CFR 2.120): It is ordered, That the effectiveness of § 121.1258 Aspartame be stayed, effective December 5, 1975.

Dated: December 2, 1975.

A. M. SCHMIDT,  
Commissioner of Food and Drugs.

[FR Doc.75-32976 Filed 12-4-75;9:55 am]

**Title 24—Housing and Urban Development**

**CHAPTER IX—OFFICE OF INTERSTATE LAND SALES REGISTRATION**

[Docket No. R-75-362]

**PART 1710—LAND REGISTRATION**

**State Filings**

On November 11, 1974, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration (OILSR) published an amendment to 24 CFR 1710.26. The amendment terminated provisions of OILSR Regulations under which initial filings of disclosure material with certain State authorities would be accepted as meeting Federal filing requirements. As to some States, the amendment became effective on January 1, 1975, but a preliminary injunction suspended the effective date of the amendment insofar as it would have precluded acceptance of initial filings made in the States of Florida and California for subdivisions located in those States.

Prior to the injunction, the State of California began to develop a federally acceptable disclosure document. An agreement has now been negotiated between OILSR and California as to changes in disclosure necessary to meet the Federal standards. These changes will be reflected in modifications to California's disclosure procedures. California has withdrawn from the litigation affecting the amendment to 24 CFR 1710.26, and the injunction suspending the effective date of that amendment has been modified by the court to eliminate the reference to California.

In accordance with the agreement between California and OILSR, a number of changes are being made in § 1710.25 and other provisions of OILSR Regulations in order to provide that initial filings made with California and accepted by authorities there may now be accepted by OILSR as meeting many of the Federal filing requirements and to specify certain limitations and conditions upon these acceptances. Specifically,

1. Section 1710.25 is being amended to clarify that, notwithstanding the general provision which will allow acceptance of California filings, OILSR retains authority to require additional information, documents, or certifications in connection with particular filings as necessary or appropriate in the public interest or for the protection of consumers and that OILSR may also refuse to accept a particular filing when this is determined to be in the public interest.



2. Section 1710.26(a) is being amended to provide that initial filings with California authorities covering California subdivisions, filed with OILSR subsequent to the effective date of these Regulations, may be accepted as meeting certain Federal filing requirements.

3. Section 1710.115 is being amended to require that the HUD disclaimer given to purchaser with the State Property Report advise that the purchasers may have rights under State law in addition to their right to revoke in certain cases under Federal law. The new language is required only for initial California filings submitted pursuant to these amended Rules; its use for other State filings is optional at this time.

4. Section 1710.120, SECTION I, is being amended to require that the additional Federal material submitted in cases where a State filing is accepted include financial statements meeting the same criteria as required for a full Federal filing.

5. Section 1710.120 is being amended to add Section IV requiring that the supporting documents and exhibits be bound, tabbed and indexed to facilitate examination.

The amendments are being made to carry out in a timely fashion an agreement that lessens an economic burden on developers without damaging purchasers; they relieve developers currently

filing in California from the burden of making an additional full Federal filing while providing disclosure protection which meets Federal standards. Accordingly, the Secretary has determined that notice and public procedure are unnecessary and impractical and that good cause exists for making the amendments effective on December 5, 1975.

In 24 CFR Part 1710 is amended as follows:

1. Section 1710.25 is amended by adding a new paragraph (d) at the end to read as follows:

**§ 1710.25 State filings—in general.**

(d) The Secretary will examine the material filed with the State authorities and require such changes, additional information, documents or certifications as the Secretary determines to be reasonably necessary or appropriate in the public interest or for the protection of purchasers. The Secretary may refuse to accept any particular filing under this section when it is determined that acceptance is not in the public interest.

2. Section 1710.26(a) is amended to read as follows:

**§ 1710.26 State Filings—acceptable filings.**

(a) Pursuant to § 1710.25, the Secretary has determined that filings which

have been made with State authorities in the following States, and which those authorities have permitted to become effective, may be accepted as meeting the requirements of this Part:

(1) California.

This determination does not apply in the case of any filing made with a State which pertains to a subdivision not located in that State.

3. Section 1710.115 is amended by changing the sixth paragraph of the Notice and Disclaimer, i.e., the paragraph immediately before the caption "Name(s) of Developer" to read as set forth below:

**§ 1710.115 State property report disclaimer.**

**PROPERTY REPORT**

Under Federal law, if you received the Property Report less than 48 hours prior to signing a contract or agreement, you have until midnight of the third business day following the consummation of the transaction to revoke your contract by notice of the seller. You may have additional rights under (insert the name of the State) law. If so, they will be reflected in this report.

4. Section 1710.115 is amended by changing the *SAMPLE FIRST PAGE OF THE PROPERTY REPORT ON A STATE FILING* to read as follows:



SAMPLE FIRST PAGE OF THE PROPERTY REPORT ON A STATE FILING

PROPERTY REPORT

NOTICE AND DISCLAIMER

BY OFFICE OF INTERSTATE LAND SALES REGISTRATION

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development has accepted this (name of State) (name of property report, e.g., public offering statement) as the Property Report on this subdivision.

The Interstate Land Sales Full Disclosure Act specifically prohibits any representation to the effect that the Federal Government has in any way passed upon the merits of, or given approval to this subdivision, or passed upon the value, if any, of the property.

It is unlawful for any one to make, or cause to be made to any prospective purchaser, any representation contrary to the foregoing or any representation which differ from the statements in this Property Report. If any such representation is made, please notify the Office of Interstate Land Sales Registration at the following address:

Office of Interstate Land Sales Registration  
HUD Building, 451 Seventh Street, S.W.  
Washington, D.C. 20410

Inspect the property and read all documents. Seek professional advice.

Unless you received this Property Report prior to or at the time you enter into a contract, you may void the contract by notice to the seller.

Under Federal law, if you received the Property Report less than 48 hours prior to signing a contract or agreement, you have the right of the third business day following the consummation of the transaction to revoke your contract by notice to the seller. You may have additional rights under (Insert the name of the State) law. If so, they will be reflected in this report.

Name(s) of Developer:

Address:

Name of Subdivision and OILSR Number:

Location:

Effective Date of Property Report:

IMPORTANT READ CAREFULLY

Name of Subdivision:

By signing this receipt you acknowledge that you have received a copy of the property report prepared pursuant to the Rules and Regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development.

Received by.....  
Street Address.....  
Date.....  
City.....State.....  
Zip.....

Notwithstanding your signature by which you acknowledged that you received the Property Report you still have other important rights under the Interstate Land Sales Full Disclosure Act.



5. Section 1710.120 is amended by changing the material headed SECTION I State Filings and adding a section IV to read as follows:

**§ 1710.120 Statement of Record—State Filing.**

**SECTION I. State Filings.** The following information shall preface the State Statement of Record or similar instrument and shall be done in accordance with the format and general instructions set forth in § 1710.125:

The heading to the format, Part I. Administrative Information, Part II. Developers and Holders of Ownership Interest in Land, Part III. Identity of Interest in More Than One Filing, and Part XIV. Financial Statements.

**SECTION IV.** All supporting documentation and exhibits contained in a State filing must be bound together and tabbed and indexed to facilitate examination. The index should be placed at the beginning, or top, of the materials submitted.

(Section 7(d), Department of Housing and Urban Development Act, 79 Stat. 670 (42 U.S.C. 3535(d)); 1419, 82 Stat. 598 (15 U.S.C. 1718); Secretary's delegation of authority published at 37 FR 5071, Mar. 9, 1972).

It is hereby certified that the economic and inflationary impacts of this final rule have been carefully evaluated in accordance with OMB Circular A-107. The Secretary has determined that this rule has no significant impact upon the environment.

**Effective date.** These amendments are effective on December 5, 1975.

JOHN R. McDOWELL,  
Acting Interstate Land  
Sales Administrator.

[FR Doc. 75-32797 Filed 12-4-75; 8:45 am]

**§ 1915.3 List of communities with special hazard areas.**

**CHAPTER X—FEDERAL INSURANCE ADMINISTRATION**

[Docket No. FI-805]

**PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS**

**List of Communities With Special Hazard Areas**

The purpose of this notice is the identification of communities with areas of special flood or mudslide or erosion hazards in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128). The identification of such areas is to provide guidance so that communities may adopt appropriate flood plain management measures to minimize damage caused by flood losses and to guide future construction, where practicable, away from locations which are threatened by flood hazards.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition,

however, does not apply to loans by a Federally regulated, insured, supervised or approved bank prior to January 1, 1976, to finance the acquisition of a previously occupied residential dwelling.

The effective date of identification shall be 30 days after the date of publication in the FEDERAL REGISTER, or the date which appears in this notice, whichever is later.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under Section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

Where several dates appear in the column set forth below marked Effective Date of Identification, the first date is the date of initial identification, and all other dates represent modification by additions or deletions to identified areas with special hazards.

Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Arizona	Gila	Globe, city of	H 040029A 01 through H 040029A 07	Arizona State Land Department, 1624 West Adams, room 400, Phoenix, Ariz. 85007. Arizona Department of Insurance, 1601 West Jefferson, Phoenix, Ariz. 85007.	City Manager, 150 North Pine, Globe, Ariz. 85501.	May 24, 1974. Nov. 21, 1975.
Arkansas	Columbia	Taylor, city of	H 060042A 01 through H 060042A 02	Division of Soil and Water Resources, State Department of Commerce, 1930 West Capitol Ave., Little Rock, Ark. 72201. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.	Mayor, City Hall, Taylor, Ark. 71861.	Mar. 22, 1974. Nov. 21, 1975.
Do	Independence	Oil Trough, city of	H 050039A 01	do	Mayor, City Hall, Oil Trough, Ark. 72504.	Mar. 22, 1974. Nov. 21, 1975.
Do	Little River	Ashdown, city of	H 050129A 01 through H 050129A 02	do	Mayor, City Hall, Ashdown, Ark. 71822.	Apr. 5, 1974. Nov. 21, 1975.
Do	Mississippi	Manila, city of	H 050149A 01	do	Mayor, City Hall, Manila, Ark. 72442.	Apr. 12, 1974. Nov. 21, 1975.
Do	White	Searcy, city of	H 050229A 01 through H 050229A 04	do	Mayor, City Hall, Searcy, Ark. 72143.	Jan. 23, 1974. Nov. 21, 1975.
Do	Woodruff	McCrory, city of	H 050232A 01	do	Mayor, City Hall, McCrory, Ark. 72101.	Mar. 20, 1974. Nov. 21, 1975.